

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DAARON SHEARS,)
)
Plaintiff,) Civil Action No. 18-602
)
v.) Judge Nora Barry Fischer
) Magistrate Judge Maureen P. Kelly
)
C.O. MOONEY, C.O. MITCHELL, STATE)
CORRECTIONAL INSTITUTION SCI) Re: ECF No. 40
GREENE, and SUPERINTENDENT)
ROBERT GILMORE)
)
Defendants.

ORDER

Currently before this Court is a Declaration filed by Plaintiff Daaron Shears (“Plaintiff”), in which he seeks a preliminary injunction to stop Defendants from taking retaliatory actions against Plaintiff for filing the instant lawsuit. ECF No. 40. Because the basis upon which Plaintiff seeks injunctive relief is different from the subject of this action, a preliminary injunction is not an appropriate vehicle through which to obtain relief. Martin v. Pennsylvania Dep’t of Corr., Civ. A. No. 08-1604, 2009 U.S. Dist. LEXIS 30170, at *1-2 (W.D. Pa. Apr. 9, 2009). Accordingly, Plaintiff’s Declaration, which the Court construes as a petition for a preliminary injunction, is denied without prejudice to Plaintiff’s ability to file a motion for leave to file a second Amended Complaint in this action containing all properly exhausted and related claims.

In accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rule 72.C.2 of the Local Rules of Court, the parties are allowed fourteen (14) days from the date of this Order to file an appeal to the District Judge which includes the basis for objection to this Order. Any

appeal is to be submitted to the Clerk of Court, United States District Court, 700 Grant Street, Room 3110, Pittsburgh, PA 15219. Failure to file a timely appeal will constitute a waiver of any appellate rights.

Dated: October 29, 2018

BY THE COURT:

/s/ Maureen P. Kelly
MAUREEN P. KELLY
UNITED STATES MAGISTRATE JUDGE

cc: Daaron Shears
KV1912
175 Progress Dr.
Waynesburg, PA 15370